

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

December 2, 2021

Lyle W. Cayce
Clerk

No. 20-60482
Summary Calendar

JOSE JORGE GONZALEZ,

Petitioner,

versus

MERRICK GARLAND, *U.S. Attorney General,*

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A078 563 438

Before SMITH, STEWART, and GRAVES, *Circuit Judges.*

PER CURIAM:*

Jose Jorge Gonzalez, a native and citizen of Mexico, petitions for review of an order by the Board of Immigration Appeals affirming the denial of his motion to reopen for lack of jurisdiction. He contends that his reinstated order of removal did not prevent the immigration judge from

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 20-60482

reopening his proceedings and that he is entitled to equitable tolling of the numeric limitation on filing motions to reopen.

We review the denial of a motion to reopen under a highly deferential abuse-of-discretion standard. *Lowe v. Sessions*, 872 F.3d 713, 715 (5th Cir. 2017). Generally, a petitioner may file one motion to reopen within 90 days of the entry of a final order of removal. 8 U.S.C. § 1229a(c)(7)(C)(i). However, if an alien reenters the United States illegally after being removed and the prior order of removal is reinstated, the underlying order “is not subject to being reopened or reviewed.” 8 U.S.C. § 1231(a)(5). Because there is no dispute that Gonzalez reentered the United States after being removed and that his prior order of removal was reinstated, he has forfeited the right to file a motion to reopen. *See Rodriguez-Saragosa v. Sessions*, 904 F.3d 349, 354 (5th Cir. 2018).

Based upon the foregoing, the petition for review is DENIED.